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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

FCC MAIL ROOM

In the Matter of)
Revision of Part 22 of the)
Commission's Rules Governing)
the Public Mobile Services)

DOCKET FILE COPY ORIGINAL
CC Docket 92-115
Part 22.919

REPLIES TO PROPOSAL BY TIA AND CTIA RELATIVE TO
FIELD ESN MODIFICATIONS

NTC Communications(NTC), a small minority owned independent Radio and Cellular Service Company, submits these comments in response to the pleading filed by TIA and CTIA. We strongly oppose the modifications to paragraph 22.919 that TIA and CTIA have conspired together to develop and submit to the Commission. We will show that this proposed rule change is design to allow CTIA and its members plus TIA's members to further monopolize the cellular telephone industry. They are trying to use the FCC in the guise of reducing fraud to give them rules that will put small firms such as ourselves and thousands of others out of business. We have shown in previous filings that this rule change will cost consumers billions of dollars each year in extra access charges. It will also prevent consumers from receiving high quality extension phone service in all markets in the US.

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Passage of this rule modification will mean that consumers will be unable to have their phones repaired since a number of firms making cellular telephones have gone out of or will go out of business leaving only independent firms to repair these phones. Others will have to return their phone to Japan, Taiwan, or to other foreign countries where the majority of cellular telephone factories are located for software or ESN changes. For the hundreds of thousands of customer that have ESN's that have been reprogrammed for various reasons including Motorola's Express service will have illegal phones according to TIA's proposed rule.

The Small Business Administration has written the Commission and points out very effectively that these rule changes are only oriented toward reducing competition and will have not any impact on fraud which is what the rule changes purport to fix. Most of the 30 million existing cellular telephones can have the ESN changed in memory(RAM) via a serial data port that the manufactures have built into the telephones. A \$30 software package or the Moto box (Exhibit 1) can permit anyone to change the ESN in seconds. Clearly these phones which are made by Motorola, NEC, Audiovox, Mitsubishi, AT&T, Sony, and GE can have their ESN's changed in seconds. Clearly these phones do not meet type acceptance under the old rules since "the circuitry that provides the serial number must be isolated..." and "attempts to change the ESN circuitry should render the mobile station inoperative" are clearly not followed. Should the Commission pass this new

rule then it have to exempt these phones from it rules or will force a recall of millions of cellular telephones. Otherwise the Commission would be guilty of selective enforcement if it just directed its efforts against firms such as ourselves. The primary purpose of 22.919 is for manufacturers to follow these rules in the design and type acceptance of cellular telephones.

Persons who want to illegally clone telephones will draw from the pool of 30 million existing phone and therefore it is clear that these new rules will have no impact in preventing fraud. In fact the cellular industry has turned to PIN numbers to eliminate fraud (see attached Bell Atlantic brochure - Exhibit 2) because they know the ESN number is not secure. This is the same approach that the banking and long distance telephone industry have adopted. This will have a major impact on fraud.

In Atlanta there are dozens of firms openinglly offering extension phone service and have modified tens of thousands of phones. These phones would be made illegal and the consumers would be federal criminals. In the thousands of pages on the record relative to this rule change, there is not a single example where a legitimate firm reprogrammed a phone that was used to steal cellular service. Also, there is no evidence that these telephones have created technical problems with the two carriers in Atlanta. We have operated

extension telephones here in the Washington area for 8 years and have had no problems nor have carriers ever contacted us about any trouble.

After reading almost a thousand pages written by the various parties to this case, it crystal clear that these rule changes are about money and the desire by the cellular carriers and their lobby group, CTIA, plus TIA to prevent competition by independent firms. If this rule is followed, then the public will pay billions of dollars in excessive charges. See earlier MTC and C2+ petitions where the these cost figures are derived.

The chief use of this rule change is for the carrier to use the ruling to threaten and in one case (Houston Cellular) went to court and got an injunction to put an extension phone dealer out of business. The carriers use the rule to block advertising in such newspapers as the Atlanta Constitution.

In all of the documentation, there was no evidence produced that any of the thousands of firms providing extension phone service have ever been involving in stealing service. Our extension cellular service is superior to the switch based service offered by the carriers. All of our phones can roam, the consumer can have as many phones as they like and there is no monthly charge.

If the customer turns only one phone on at a time (the

carrier based service also requires this) then there is no overhead or problems caused to the system. McCaw claims that there is additional overhead on the system should a customer disobey their contract and have two telephones on a time. Because registration is a background computer task to aid in call delivery, we believe any cost would be very small. Because of UPS is a large cellular user, the carriers offer UPS employees cellular access fee for \$4/month. This including billing, credit, collection, the administration of the telephone line, profit and overhead. Here in Washington, ISI is offering service to all comers for \$9.95 per month. It is clear to us that the actual cost for doing registration would be pennies. As shown in our previous comments, carriers are charging \$20 to \$30 per extension phone which is outrageous. Should the FCC not roll back its rules, then the effect will be to help the carriers grossly over charge customers.

In conclusion, we believe that the Commission should reject the changes offered by CTIA and TIA. We believe the Commission should allow ESN changes in the field provided the following conditions be met:

1. The person doing the reprogramming should be a licensed FCC technician.
2. The customer must sign an agreement that they will turn only one phone on at time.
3. The customer must provide identification such as a driver's license and a valid cellular contract.

4. Should the FCC permit extension phones then we would be glad to notify the carrier that we have made an ESN change be it for maintenance purposes or for an extension phone.

We believe that permitting ESN changes by legitimate firms such as ourselves under the above conditions is in the best interest of the public. We therefore urge the Commission to not change the part 22.919 of the rules as requested TIA and CTIA.

Respectfully submitted,



M. G. Heavener

April 1, 1995

President
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CERTIFICATE OF SERVICE

I, Michael G. Heavener, hereby certify that on this 3rd day of March, 1995 copies of these comments were sent by U.S. mail, postage prepaid, to the following parties:

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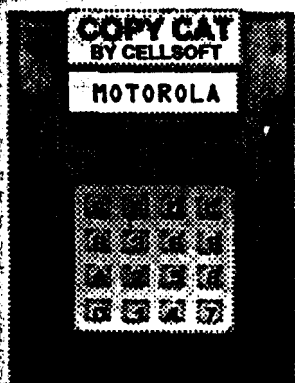
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Q. How can I tell if I've become a victim of fraud?

A. *There are some things customers can do to spot potential fraud. First, look for unusual calls or activity on your monthly bill. Second, if you begin receiving a large number of wrong number or "hang up" calls on your cellular phone, it may indicate someone else is fraudulently using your number.*

Here are some other ideas to help prevent cellular fraud:

- Just as you protect your credit card and calling card numbers, protect sensitive documents (such as subscriber agreements) which include electronic serial and mobile telephone numbers.
- Lock the phone or remove the handset and cellular antenna before leaving your vehicle in the care of someone you don't know.
- When leaving your vehicle in an isolated or high-risk area, remove the phone or lock it out of sight.
- Immediately report a stolen phone to your cellular carrier.
- Only allow reputable cellular service technicians install or test your phone. Bell Atlantic Mobile offers installation and service facilities at our Communications Store locations throughout the U.S., and a wide variety of authorized dealers.

TO ESTABLISH YOUR PIN
CALL 1-800-372-8379
(1-800-FRAUDRX) OR
*999 FROM YOUR
CELLULAR PHONE
24 HOURS A DAY,
7 DAYS A WEEK

WE APPRECIATE YOUR
TEAMING WITH US TO
COMBAT FRAUD!

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EXHIBIT 2

CELLULAR FRAUD

AND
WHAT YOU
CAN DO
TO
PROTECT
YOUR PHONE.

@Bell Atlantic Mobile

COMBAT CELLULAR FRAUD WITH PINs!

You've probably seen or heard stories about the growth of cellular phone fraud and the inconvenience it causes customers. In fact, it has become an increasingly serious problem across the nation, costing the cellular industry over a million dollars a day. At Bell Atlantic Mobile, we are very concerned about fraud and are proactively combating it at all levels to protect you and your service.

In order to best provide you with security against cellular thieves, Bell Atlantic Mobile is providing your cellular phone with a Personal Identification Number (PIN).

The PIN feature has been proven to deter fraudulent use because it is a personal number, chosen by the customer. It provides you with the same protection you get from your ATM or calling card. Similar to using both of these, the feature requires you to dial your PIN for each call placed from your cellular phone.

Cellular fraud is a crime, and PINs are just one weapon Bell Atlantic Mobile is using to combat cellular fraud. To find out more about cellular fraud, how to choose your PIN, and how to utilize the feature effectively, please read the following Questions & Answers.

HOW CELLULAR FRAUD AFFECTS YOU.

Q. How does cellular fraud occur?

A. Cellular fraud most often occurs in the form of "cloned" phones. Using electronic devices, cellular thieves can "read" your unique cellular phone number and your phone's Electronic Serial Number (ESN). This information is then programmed into another phone for fraudulent use,

which ends up getting charged to your account. It's like someone getting your charge card and making multiple unauthorized charges against your account.

Q. How effective are PINs in preventing fraud?

A. Because your PIN code travels over a different radio frequency, when you place a call you make it harder for thieves to use your cellular phone number fraudulently. Your cellular number can still be cloned and used in a PIN feature market, and used in a market or system that does not require a PIN. But this four-digit code reduces the likelihood that you will become a victim of cellular fraud.

WHAT YOU NEED TO KNOW TO SET UP AND USE YOUR PIN.

Q. How do I establish my Personal Identification Number (PIN)?

A. Call 1-800-372-8379 (1-800-FRAUDRX) or *999 from your cellular phone (24 hours a day, 7 days a week), and one of our Customer Service Representatives will activate your four-digit PIN. Please note, the PIN code cannot be 1234, 4321, the last four digits of your mobile number, or all the same digits (i.e. 1111 or 5555). Keep in mind that the number you choose should be easy for you to remember, since we do not keep a written record of your PIN on file. Your PIN needs to remain confidential; at no time will Bell Atlantic Mobile employees ever contact you to verify your PIN.

Q. Once I have established my PIN, How do I use it to make calls?

A. For outgoing calls, enter the number you are calling, press send, after you hear two quick

rings, enter your PIN, and press send again. Your call will then be placed. You will have 30 seconds to enter your PIN. If you do not enter your PIN within that time, or you enter a wrong PIN, you will hear a fast busy tone and your call will not be placed.

Depending on the type of phone you have, you may have the capability to store your PIN code in memory for easy retrieval using "link dialing". Please call 611 for details. For information on how to make Wireless Data or Fax calls with the PIN, please call 1-800-372-8379 (1-800-FRAUDRX) or *999 from your cellular phone.

Q. Will I need to utilize my PIN when I am traveling outside my home calling area?

A. Yes, the PIN is required when you roam in Bell Atlantic Mobile markets. It may also be required when you travel in other markets as well. Depending on the market you are roaming in, you will hear a two-ring prompt or a local prompt. If you do not hear a prompt, your PIN will not be required in that market.

Q. What do I do if I forget my PIN code?

A. Call 1-800-372-8379 (1-800-FRAUDRX) or *999 and speak to one of our Customer Service Representatives to establish a new PIN.

Q. Are there any charges associated with the PIN?

A. There is no charge for using the PIN feature. The average time to enter a PIN is less than 6 seconds. However, we have allowed a 30 second window to enter your PIN which could add additional billable time to your call.